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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,578	11/07/2001	Prem Chandar	J6674(C)	4054

201 7590 01/28/2004

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

YU, GINA C

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/036,578

Applicant(s)

CHANDAR ET AL.

Examiner

Gina C. Yu

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See continuation sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See continuation sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1,2,7,8 and 13-15.

Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
10. ☐ Other: _____


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

1/23/04

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Continuation from No. 2:

The proposed amendment will not be entered because in examiner's view it does not place the application in the allowable condition. While applicants assert that claim 14 is free of art, examiner notes that Granger (US 5716627) already teaches using LMEA with retinol or retinyl ester to improve the performance of the retinoids. The secondary reference Granger (WO 98/13020) also teaches a skin conditioning composition comprising alpha-ionone with retinol or retinyl ester. A skilled artisan at the time of the present invention would have obviously found the motivation to combine the two references, which are both directed to retinol or retinyl ester compositions for skin treatment, and expected to successfully produce an enhanced skin care composition with skin conditioning and improved retinoid effects. Applicants' assertion that Granger (WO98/13020) teaches away from using LMEA is not persuasive, as there appears to be no factual support to the argument.

Continuation from no. 5:

In response to applicants' argument that the rejection does not address the limitation of peroxide value, examiner reiterates that the Granger (US 5403517) teaches using the components as required by applicants and thus the claimed peroxide value is inseparable from the prior art composition. See col. 3, lines 40-54 for LMEA; col. 4, lines 5 – 27 for climbazole; col. 4, line 53 – col. 5, line 52 for the same optional ingredients as disclosed by applicants in specification 37 – 38, particularly mineral oil and squalene which are also the preferred oil components according to applicants'

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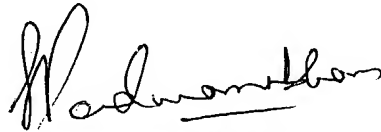
disclosure in Example 1 on page 34 of the specification. See also '517, Example 7 which employs mineral oil in oil-in-water formulation. Examiner maintains the position that the claimed composition is an obvious variation of the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-308-3951.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 703-305-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina Yu
Patent Examiner


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER
1/23/04